# PRE-APPEAL BRIEF REQUEST FOR REVIEW

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| | **Docket Number** 24207-10111 |

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| Pursuant to 240 OG 45 and the *Legal Framework For EFS-Web*, I hereby certify that this follow-on correspondence is being officially submitted through the USPTO EFS-Web system from the Pacific Time Zone of the United States on the local date shown below. | **Application Number** 10/814,999     **Filed** 03/31/2004 |
| On September 9, 2009_____ | **First Named Inventor** David Benjamin Auerbach |
| Signature /Christopher King/ | **Art Unit** 2451     **Examiner** Glenford Madamba |
| Typed or printed name Christopher-Charles P. King | |

This request is being filed with a notice of appeal.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

☒ attorney or agent of record.
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September 9, 2009____
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of __1 of 1____ form is submitted.

**ATTACHMENT TO THE PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Pre-appeal review is requested because the rejections in the Final Office Action of June 10, 2009, are improper and without factual or legal basis. Applicants respectfully request that the Panel indicate that independent claims 1, 25, 49, and 53, as well as their respective dependent claims, recite allowable subject matter.

## I.    Status of the Claims

Claims 1, 3-7, 9-17, 19-25, 27-31, 33-41, 43-51, 53-55, 57-59, 61-63, and 65-66 are pending in this application and stand rejected under 35 U.S.C. § 103 based on various combinations of Belfiore et al., U.S. Patent Publication 2002/0059425, Gross et al., U.S. Patent 5,555,346, Gruen et al., U.S. Patent Publication 2005/0057584, Dumais et al., U.S. Patent Publication 2004/0267700, and Omoigui, U.S. Patent Publication 2004/0230572.

## II.    Rejections of pending claims 1, 3-7, 9-17, 19-25, 27-31, 33-41, 43-51, 53-55, 57-59, 61-63, and 65-66 as unpatentable over Belfiore, Gross, Gruen, Dumais, and Omoigui

To render a claim unpatentable under 35 U.S.C. § 103, the prior art must disclose or suggest each and every limitation in the claim. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) (reversing § 103 rejection because examiner ignored material claimed limitation that was absent from reference); *In re Royka*, 490 F.2d 981 (CCPA 1974).

Independent claim 1 recites a method comprising, in part:

> ...
> determining based at least in part on the event data that the email event is related to a first conversation comprising a first thread of related email messages;
> **analyzing a time gap between the email event and the email messages in the first conversation;**
> **responsive to the time gap being less than a certain amount of time:**
> > **associating the email event with the first conversation**; and
> > storing the email event, the association with the first conversation, and the email message; and
> **responsive to the time gap exceeding the certain amount of time:**
> > **associating the email event with a new conversation**; and
> > storing the email event, the association with the new conversation, and the email message.

Thus, claim 1 analyzes a time gap between an email event and email messages in a first conversation. The email event is associated with the first conversation or with a new

conversation responsive to the time gap exceeding a certain amount of time. As one example, if the time gap between the email event and the messages of a first conversation is less than 300 seconds, then the email event is associated with an existing conversation, and is otherwise associated with a new conversation on the assumption that the event is too far away in time from the email messages of the existing conversation to constitute part of the same conversation.

The Examiner properly notes that Belfiore, Gross, and Gruen do not disclose the features relating to the claimed time gap. (Final Office Action, page 6). Nor does Dumais, cited only with respect to claims 15 and 39 as allegedly showing "determining if a packet or packets received from a network comprises an email protocol," remedy the deficiencies of Belfiore, Gross, and Gruen, nor does the Examiner allege that it does. Rather, the Examiner relies on Omoigui, but Omoigui likewise fails to disclose or suggest the claimed features.

Omoigui discloses an integrated implementation framework for knowledge management, including maintaining semantic information. (Omoigui, Abstract). This includes a number of distinct "additional improved features, enhancements and/or properties, including… Entities, Profiles and Semantic Threads" with respect to a prior patent application. (Omoigui, Paragraph [0005]). The Examiner cites a number of different paragraphs illustrating different concepts, none of which discloses or suggests the claimed analyzing a time gap between an email event and email messages in a first conversation and associating the email event with a first conversation or with a new conversation responsive to the time gap being less than, or exceeding, a certain amount of time.

More specifically, cited paragraphs [0284]-[0286] disclose the use of time-sensitive semantic queries to account for the rate at which documents are received, and in particular paragraph [0286] mentions that a query for "Breaking News" could return all objects received in the last N minutes. Cited paragraph [0603] similarly discloses that a semantic query can be of high or moderate time-criticality, corresponding to 3 or 12 hours, respectively. However, these citations fail to disclose analyzing a time gap between an email event and email messages in a first conversation. First, they fail to disclose a **conversation** at all, and thus plainly cannot analyze a time gap between an email event and email messages in a first conversation. Second, they do not disclose analyzing a time gap **between an email event and email messages**. Rather, to find the objects received in the last N minutes (or 3 or 12 hours), the Omoigui system would need only to examine a time associated with an object and calculate a difference from the present

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moment, without reference to any email messages in a first conversation, or to any other email messages at all.

Cited paragraphs [0356]-[0361] merely make the general statement that email objects can be presented within a semantic browser, but this reveals nothing further about associating an email event with a conversation responsive to the analyzed time gap being less than or exceeding a certain amount of time.

Cited paragraph [1190] discloses that the Omoigui system supports "semantic threads" representing annotations or conversations, and [1203]-[1207] disclose that a semantic thread can represent a conversation, i.e., can have more than one participant. Cited paragraphs [1195]-[1200] generally discuss computing link strengths of semantic categories to be assigned to a thread to quantify how relevant a given category is to the thread. As explained by paragraph [1194], semantic links are added to a thread to track the contents of a thread, i.e., to show which semantic categories describe a given thread. However, there is no discussion of determining whether to add an email event to a first conversation thread or to a new conversation thread responsive to analyzing a time gap between the email event and email messages of the first conversation. The only references to time within the context of the Omoigui threads are irrelevant: Omoigui paragraph [1196] merely mentions taking into account a time that an entry was added to age the semantics of older items when computing the aforementioned link strengths, and paragraph [1201] mentions updating a last-modified time of a thread when a new object is added to the thread. In fact, there is no discussion of controlling additions to a thread in any manner, responsive to a time gap or otherwise. For example, the rules pseudocode set forth between paragraphs [1197] and [1198] of Omoigui merely mentions "Categoriz[ing] the new item to be added to the thread," updating the weighted-average links strengths of categories already on the thread, and assigning a link strength to a category not already on the thread. This assumes, without analysis, that an item is to be added to a thread, without considering whether it should be added. Thus, since there is no analysis at all in Omoigui of whether to add an email to a thread, responsive to a time gap or to anything else, Omoigui plainly cannot disclose or suggest adding an email event to a first or to a new conversation responsive to the time gap being less than, or exceeding, the certain amount of time, as claimed.

In short, a set of unrelated cited paragraphs showing distinct concepts, such as that there can be conversation threads (in general), or that it is possible to query all objects received in the

past N minutes, simply does not disclose or suggest the specific features of the claimed invention, i.e., associating an email event with a first conversation or with a new conversation responsive to a time gap between an email event and email messages of a first conversation being less than, or exceeding, a certain amount of time. Thus, one of skill in the art at the time that the claimed invention was made would not have found the invention to be obvious.

Independent claims 25, 49, and 53 also recite features concerning the time gap of claim 1, and are not obvious for at least the same reasons discussed above with respect to claim 1. The remaining claims depend from claims 1, 25, 49, or 53, and are thus likewise not obvious for at least the same reasons.

## III.    Summary

Based on the foregoing, Applicants respectfully submit that the pending rejections suffer from clear deficiencies. Accordingly, Applicant requests that the rejections of pending claims 1, 3-7, 9-17, 19-25, 27-31, 33-41, 43-51, 53-55, 57-59, 61-63, and 65-66 be withdrawn.

Respectfully Submitted,


Date:   September 9, 2009            By:    /Christopher King/

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